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CITY OF BELEN
PLANNING & ZONING COMMISSION MEETING
MINUTES
DECEMBER 30, 2013

Chairman Tom Greer called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:30 p.m.

PRESENT: Commissioner Gordon Reeves
Chairman Tom Greer
Commissioner Steve Ethridge
Commissioner Selma Martinez
Commissioner Rod Storey

CITY STAFF: Steven Tomita, Planning & Zoning Director
Lisa Miller, Sr. Code Enforcement Officer

OTHER:	Frank Storey	Citizen
	Pete Armstrong	Citizen
	Mela Esquibel	Citizen
	Beth Christensen	Citizen
	Eugene Maestas	Citizen
	Aurellio Padilla	Citizen
	Terry & Karen Maynor	Citizen
	Gloria Mills	Citizen
	Laura Laidler	Citizen
	Victor French	Citizen

APPROVAL OF AGENDA:

Chairman Tom Greer asked for a change in the Agenda. This change would be to the name of the business for the Amended Conditional Use. The name would change from Rail Café Partners to Hub City Brewing Co LLC. All other information is correct.

Chairman Rod Storey asked if this would stop the Conditional Use from being heard and if it would need to be published in the paper again.

Steven Tomita informed the Commission that it would not be changing the location of the Conditional Use so it would therefore not affect the public hearing.

Vice-Chair Gordon Reeves moved to approve the Agenda as corrected.

Commissioner Selma Martinez seconded the motion.

Motion carried.

APPROVE OF MINUTES:

The Minutes of November 25, 2013, 2013 were reviewed.

Commissioner Selma Martinez informed the Commission that she has given Lisa the errors that she had found on the Minutes.

Lisa Miller said that she would correct these errors.

Commissioner Rod Storey moved to approve the minutes as corrected.

Vice Chair Gordon Reeves seconded the motion.

Motion carried.

ACTION ITEMS

- A. **REQUEST TO AMEND THE CONDITIONAL USE: HUB CITY BREWING CO, LLC/TOM GREER AGENT for the purpose of brewing and distributing Beer in a C-R Zone. Legal Description:** Township 5 North, Range 2 East, Section 18, Tract 46, containing .83 acres., Map 99 MRGCD, AKA 202 De Soto Ave., Belen NM 87002.

Chairman Tom Greer informed the public and Commission that he would be stepping down from his position as Chairman so that he may present this request as a citizen. He will turn the meeting over to the Vice Chair Gordon Reeves for this issue.

Tom Greer informed the Commission that this was a request to change an existing Conditional Use Permit allowing for the sale of beer and wine at the Rail Café that was granted August 1, 2007. The amendment to the Conditional Use Permit is for the additional purpose of brewing and distributing beer on the premises as the Hub City Brewing Co. plans to re-open the Rail Café as the Hub City Brewing Co., as NM

licensed microbrewery. They plan to brew 1 to 4 times a month on a small batch 20 gallon system. Beer production cycles will range from 14 to 21 days for ales and up to 48 days for lagers. This will then be served, on site, in their tap room for on and off premise purposes. The New Mexico Alcohol & Gaming Commission is requesting that the Hub City Brewing Co. amend the Conditional Use Permit so that it will allow a microbrewery to produce and distribute Beer at this location. The Hub City Brewing Co. will be a microbrewery for beer only, so wine will need to be taken off the Conditional Use also.

Vice Chair Gordon Reeves asked if they would be distributing beer from that location to other locations or would that just be for on site sales only.

Tom Greer informed the Commission that it would be for on site sales and package sales. Their intentions are to produce the minimum amount of beer. They found that it was the most logical use of this property given its location and the economic times that they are working in. They did discover that the sale of food at that location was a bad idea. The food was good but competing with the Dollar Menu at McDonalds makes it difficult to produce the quality food that they wished to serve.

Commissioner Rod Storey asked if they had obtained their Brewer license.

Tom Greer said that they were in the process of doing this and obtaining the amended Conditional Use Permit is one part of the paperwork that is required.

Commissioner Rod Storey asked that the change in the Conditional Use is required to obtain the brewers license.

Tom Greer said yes.

Commissioner Rod Storey asked if it is the Brewery that carried this permit.

Tom Greer said that it is like having a beer and wine license. If someone were to take over the property or the license the Conditional Use Permit does not transfer. It is not like a full service liquor license. It stays with the intended use with the person applying for it.

Commissioner Steve Ethridge asked if he had to comply with the same regulations as a Bar would. For example, he could not serve beer after a certain time, stay open 24/7, etc.

Tom Greer informed the Commission that they have to follow all state regulations.

Commissioner Rod Storey asked if he was the brewer.

Tom Greer said that he knew everything else but being a Brewer. The fascinating thing is that somebody who can actually manage and operate a business is hard to find but finding a Brew Master in New Mexico is very easy. They are just lining up at your door. The business will be completely run and operated by Veterans.

Commissioner Rod Storey said that he was a bit confused and asked if the license goes to the company and not the brewer.

Tom Greer said that they are one and the same, the Brewer is the Company, but he was not the Brew Master who actually formulates the beer.

Commissioner Rod Storey asked when that person would be selected.

Tom Greer said that at this time they are just going through the process of obtaining the Brewers License then we will hire a Brew Master.

Lisa Miller informed the Commission that she had received a letter from a property owner of one of the homes in the area. The home is empty and the owner is out of state at this time, but he has no problem with the brewery going in next to his property.

There were no public comments given.

Commissioner Rod Storey asked for clarification on the present zoning of the property.

Steven Tomita informed the Commission that the present zoning was C-R and that a beer and wine license or a brewery license are allowed in this zone with a Conditional Use Permit. The request to amend the Conditional Use was to change the existing Conditional Use allowing for the sale of Beer and Wine to one of allowing the sale of Beer in addition to a Microbrewery with intent of distribution.

Commissioner Rod Storey asked if the distance from a school and church had been confirmed.

Lisa Miller said yes.

Tom Greer informed the Commission that the closest school is Central Elementary and the closest church is the Seventh Day Adventist Church and they are 6 to 10 times the required distance.

Commissioner Selma Martinez moved to approve the Conditional Use Permit for the purpose of a Microbrewery and distribution of beer at 202 De Soto Ave., Belen NM 87002 by the Hub City Brewing Company LLC.

Commissioner Steve Ethridge seconded the motion.

Motion carried.

Vote is as follows:

Commissioner Selma Martinez	Yes
Vice Chair Gordon Reeves	Yes
Commissioner Rod Storey	Yes
Commissioner Steve Ehtridge	Yes

Vice Chair Gordon Reeves turned the meeting back over Tom Greer to resume his place as the Chairman of the Planning and Zoning Commission.

- B. REQUEST TO AMEND THE ZONE MAP FROM C-1 TO SU-1 (for future expansion and/or addition of an on-site crematory): ROBERT C NOBLIN: Legal Description:** Township 5 North, Range 2 East, Section 18, BTS Addition, Block 16, Lots 14, 15, 16, AKA Parking lot at 418 Reinken Ave (Noblin Funeral Home) Belen NM 87002.

Steven Tomita informed the Commission that the applicant has re-applied for a Zone Change for re-consideration. There is nothing stopping this application, under our Ordinances, to re-apply to be heard for reconsideration. He would like to clarify that there have been different discussions about other Communities; that other Communities if there is already a mortuary, located there, that a crematory is considered an accessory use and does not go through these hearings for a Special Use zone. In Albuquerque and Rio Rancho, for a special use it is a cemetery or a cemetery that includes a crematory, and/or mausoleum. Under Belen's Ordinance is says that a cemetery, mausoleum, or crematory are only allowed in a SU-1 Zone. Our Ordinance separates them.

Commissioner Rod Storey said that this has already gone through the zone change process and asked if this was an appeal.

Steven Tomita said that it was not an appeal but a re-application. Our City Codes and Ordinances do allow you to return and re-apply. If you feel that you have something different to say, have more information or you might be considered differently, you can re-apply. Our Code and Ordinance does not have a time limit on this.

Commissioner Rod Storey said he was asking because the P & Z Commission and the City Council have already heard this issue and been through the rederick and the character references and would like to keep it to the Planning & Zoning issues and move on from there and not take up a whole night of calling people out.

Chairman Tom Greer said that as Commissioners they have very narrow guidelines on what they can do. If it is in the broad public interest, the appropriate use of an existing property, all the paperwork is filed properly and everything is done in order with the Codes of the City, which is all they have access to work with. He understands that there is a lot of emotion in this, and have seen it in the past, but it really takes it beyond the Planning & Zoning Commission and its responsibilities. We simply have to comply with is it legal, is it right and is it appropriate and these are the guidelines that we have to work with.

Mr. Robert Noblin informed the Commission that they are requesting a zone change so that a crematory may be installed on our property at 418 W Reinken Ave. Most of the information has been provided in the previous application but there are a few new Commissioners so he has provided new information booklets. The first request was presented on May 28, 2013 and at that meeting there were a lot of concern about emissions and other things that we have hashed out time and time again, both here with the Commission and the City Council. There were questions regarding emission, particulates and other elements making there way over the buildings and into the public park. Shortly after the P & Z Meeting of May 28, 2013 we received the letter from the New Mexico Environment Department Air Quality Bureau. This Bureau is the governing body for this type of issue. In the third paragraph it says that the Notice of No Permit Required authorizes us to operate this facility as stated in the application. Everything in the booklet, from beginning to end, is a simple introduction. What is cremation, how is it accomplished, model and model specification of the unit they want to purchase, site drawing, an Arial of the property and a copy of the letter received from the New Mexico Environment Department Air Quality Bureau.

Chairman Tom Greer asked if the location of the structure was the same as the original request.

Robert Noblin said that it was. It is located at the west end of the property with the appropriate setbacks.

Commissioner Rod Storey asked if the yellow structure on the site drawing was the existing building.

Robert Noblin said that it was one of the locations for the crematory that was thought about. There is an existing building there. This building will be demolished.

Chairman Tom Greer said that the existing building will be demolished so that the relative footprints of the buildings will be the same.

Robert Noblin said yes.

Commissioner Steve Ethridge said that it says that the building, after it is constructed, can be subject to inspections and asked if that would be by the Bureau or is there others.

Robert Noblin said that anytime, and this also includes the public, the Air Quality Bureau can be called to do an inspection. Crematory operations are inspected under the State Board of Funeral Services.

Steven Tomita informed the Commission said that this is a very difficult subject with other Communities on what they can do or not, but one thing that is pretty standard is that the Communities were very concerned that the standards and specs, as present in the pamphlet, are maintained. They felt that it was very critical that the afterburner be included because that it what removes all of the particulate matters and everything else. Most Communities have recommended that some program be set up for monitoring inspections and bio-testing at different intervals so that those standards are upheld. This might be something that the Commission can consider as a condition of the zone change.

Chairman Rod Storey asked if the Council asked him to do this research.

Steven Tomita said that they did not. He was just looking to find out how decisions can be made based upon the criteria that is given to you and that was one of the standards that most Communities have set.

Vice Chair Gordon Reeves asked if all of the inspections were done by the State.

Robert Noblin said yes.

Chairman Tom Greer asked if the piece of equipment they are going to purchase addressing that after burner is a part of the automated process so that this eliminates human error from both the after burner and the cremation burner, because it says that there is an emission monitor and recording device on this unit.

Robert Noblin said that where you eliminate emissions and particulates is in temperature and time control of the after burner and with this particular unit it has a built in, what is called opacitors located in the stack. If something leaves the after burners it passes these opacitors (sensors), and if there is an issue, with this particular crematory, it will shut itself completely down, send him a notification and send a notification to the crematory manufacturer notifying them that there is a problem and it needs to be looked at and repaired.

Chairman Tom Greer asked if there was an ongoing recording of this data so that someone can actually go and look at the data to determine if the unit is functioning properly or not.

Robert Noblin said yes. This is not a requirement but it is something that they chose to have as part of this crematory.

Chairman Tom Greer said that would also provide the Air Quality Bureau a way to review the data without have to continuously come down to inspect the unit.

Robert Noblin said that it can be down loaded into a thumb drive and sent to anyone who wishes to view the data.

Commissioner Rod Storey said that it shuts down if it senses a malfunction but what prevents any particulates from escaping before this unit shuts itself off.

Robert Noblin said that there should not be any particulate matter leaving the crematory vault. There are things in place that assures us that there won't be.

Commissioner Rod Storey said that is ok but what takes care of the stuff that makes it through before the unit senses a problem and shuts down.

Robert Noblin said that at that point the after burner pushing heat up through the stack shuts down and there should be no particulates that escape, but he will get with the manufacturer to get this question addressed. Things that are leaving a crematory, just as carbon monoxide, has no visible smoke, and no odor from particulate mater from the stack.

Chairman Tom Greer said that this company has hundreds of models with them al over the country.

Robert Noblin said that there were several crematory manufacturers available but this is one of the largest and most respected ones.

Chairman Tom Greer opened the hearing for public comments and asked the public to be brief and not redundant and try to be judicious. Please state your name and where you live.

Mr. Terry Mayner, residing at 309 N Fifth St., and the statements that were made on the components or particulate matter that might get past theses sensors tells him that there is a potential for this happening. He would like to know what would happen to the particulates that do get past these sensors. Obviously the after burner is before the sensors so there might be a problem with the particulates that might escape. To him that is a concern. According to the information sent to the neighbors, the yellow arrow points to where the crematorium is supposed to be and this is very deceiving because it was said that the crematorium was to be placed on the far west of the parking lot and the arrow shows a different area. This could be very deceiving to someone looking at this photo.

Lisa Miller said that it was referring to the location of the property that is requesting the zone change and not the location of the structure.

Terry Mayner said that may be so but it is very deceiving to the person who is looking at the map. They may not understand that it refers to the property and not the location of the structure. I have been told by another neighbor that it was to be located next to the funeral home according to the map. This may be the opinion of a lot of other people. Like the last time he feels that this is not the right place for a crematory to be. What is to happen when the unit get older, like the emissions on an old car, these are concerns.

Frank Storey, resident of Belen, was involved in the previous hearings and listened to the issues. This was rejected by the City Council the last time and we are now here again. Some things have changed. He requests that Tom Greer remove himself from voting in this matter due to the fact that you do business with Mr. Noblin and feels it is in appropriate for him to vote on this matter. They have sat there and listened to Mr. Noblin about one issue, which is the particulates, but there are other considerations, the fact that this is a historic district, a residential district, and this is why we have zoning laws in place. He heard another member of the Community inform Mr. Noblin that he would give him five acres out on the mesa to build the crematorium. He wished Mr. Noblin all the success in the world to build the crematorium, but no in the middle of Belen and not next to a public park in a historic and residential district. There is a farmers market held at this park, and he is a vendor at this market, and the last thing that he wants is people burning bodies (cremating) next to them, right in the middle of Belen. This crematory is appropriate for the Community and needs to take place, but not at this location.

Mr. Will Arrizman, (?) who is a resident on Lopez Rd., heard a lot of fear and suspicions at the previous hearings in May. Mr. Noblin has shown up with facts, the facts from the manufacturer of the machine that is approved nation wide and world wide, has shown up with the numbers that have answered the questions to the fears. He appreciates Mr. Storey's concerns about particulates getting past, you could use that description as horses getting out of the barn door, and his belief is that the machine should be calibrated and able to show those horses coming and shut itself down. To be quite honest, if there is anyone on the Commission who has family working for or related to the competing funeral home that these are the ones who should removes themselves from voting because that is a direct conflict of interest. We have railroads here that pump out twice as many particulates, but his machine has been proved, not only from the state level, but from the national level, that the state no longer regulates them. Lets do the right thing and provide Mr. Noblin with the things he needs to get things done. This is not an unsafe machine and a necessary reasonable part of his business, please let the man do his business.

Commissioner Rod Storey said that he would address his concern and said that he will not remove himself from voting. This is not an Economic Development and has

nothing to do with competing businesses, this is a Planning & Zoning issue which is heard before the Planning & Zoning Commission.

Mr. Joseph Lorenzano (?) and would like to state some facts to the matter concerning conflicts of interest, which was not addressed the last time and based on information that Mr Frank Storey received, that he was a neighbor of Dickie Romero's and at one time his son was working for Dickie Romero and there is a conflict of interest and should remove yourself from voting.

Mr. Herman Tabet, a resident of Belen, and he has served 23 years at the County Planning & Zoning and understands that the Planning & Zoning Commission are just a recommending body not the final decision makers. Their decisions do not make any difference because it is the City Council that makes the final decisions and feels that it should not have gone before the Planning & Zoning Commission but directly to City Council. This is going to just go on and on for the next few years until it is taken to District Court for a decision. He does not object to more business coming to Belen, but he feels that is the wrong location for this. Every one is getting excited on this issue of conflict of interest. There is no conflict of interest. The Commission needs to make a decision and submit this recommendation to the Council. The last time he had checked with the Air Quality Bureau, he was informed that they have noting to do with crematories and that goes to federal for regulation. He questions that, but said that it really does not make a difference.

Chairman Tom Greer said that he was right and that the Commission is to listen and present a recommendation to the Council. They are only a recommending body.

Robert Noblin responded by saying he appreciated Mr. Tabets comments. He has had counsel with his legal council and there are a lot of decisions that need to be made at court. Unfortunately, the way that the City Ordinances are written we could be stuck in this perpetual circle until the right thing is done or eventually ends up in a court situation. He has been asked several times why this is not an accessory use or a conditional use, or where in the Belen Ordinances where being a Funeral Home prohibits me from having a crematory. The Ordinances are very vague and asked that the decision be based solely on the zone change. That is what he is there for. He does not feel that the Air Quality Bureau would lie to him about the crematory either.

Eugene Maestas said that it sounded like the biggest argument was the air quality, but that is not just the issue. People just do not want it there, not at that location. People do want it in Belen, it is good for the economy, but not at that location.

Ruby Glasscock, resident at 119 Sunrise Bluffs, asked if the Commission could make a decision based on what the people want or do they have to follow the laws.

Chairman Tom Greer said that they have very narrow guidelines in what their function is as an advisory Board.

Ruby Glasscock said that it all comes down to the point that people just do not want it.

Kenneth Sanders said that it is really cut and dry issue. There are two funeral homes in this City and they do not like each other. That is not going to change. The job of the Commission is to look at the zone, look at the policies, look at the law, what you are allowed to do and try to take the personal out of it, as hard as that is, and make a decision based on those facts.

All Padilla said that the location that seems to be the main problem. There is a park there with as many as 70 kids there during the summer and several adults there at all times of the day and feels that the location is not a good one. There are other locations in the City. If he was to sell his home the real estate agent would do an exploratory and when they see that there is a crematory also located in the area, they would affect the sale of the property. It is not a good location and people do not want it there.

Pete Armstrong said that, being a resident about a block away from Noblin's Funeral Home, he has no issue with this. He has a number of elderly friends, which could not make it to the meeting, that have no issue with a crematory being there. As important as the opinions of others are, Mr. Noblin has already been approved to run a funeral home at that location and depending on how you read those regulations, if it were him he would never have asked for the approval he would have just put a crematory there. It is a part of a funeral home services. It has turned into a very political, very emotional issue and what he would say to the Commission is to let the facts be a part of their judgment. The decision of the Commission, whether is for or against this request, sends a very strong message to anybody who is looking at Belen to do business here. He knows, for a fact, that there have been many situations in the past where this City, and the folks that are associated with this, providing leadership and guidance to this City, have turned down business opportunities and as a result, the word is, that Belen is not very friendly to business. This would take a very strong step in saying, that if you play by the rules and if you go over and above the rules, and you want to be a partner in this Community, that message will be loud and clear to people who want to do business here in the future.

Chairman Tom Greer closed the public comments and asked Steven Tomita to review, for them, the guidelines are for them to approve or disapprove the application.

Steven Tomita informed the Commission that they need to look at the Intent under the SU-1 Zone. There are three categories that need to be observed. The Intent states: The City Council may not grant a zone change for special use unless satisfactory provisions have be made:

- A. To assure that the degree of compatibility of property uses shall be maintained with respect to the special use and the surrounding uses of property in the general area;
- B. To reserve the integrity and character of the zone in which the use will be located, and the utility and value of property in the special use zone and in adjacent zones; and
- C. To assure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

Those are the three categories that need to be evaluated when you consider this request.

Chairman Tom Greer asked Mr. Noblin if he wanted to make any further statements before a motion was called for.

Robert Noblin said no.

Commissioner Rod Storey said that he has sat thru three hearings, in May and June of 2013, concerning this issue and have seen no changes in any type of information. This is to go to City Council for the final vote. He moved that it go to the City Council with a non recommendation.

Vice Chair Gordon Reeves seconded the motion.

Lisa Miller said, to clarify motion, if the motion was made to mean the recommendation was no.

Commissioner Rod Storey said that was his intent.

Commissioner Selma Martinez abstained.

Motion died three to one.

Commissioner Steve Ethridge moved that it go to the Council with a recommendation of approving the Zone Change.

Chairman Tom Greer seconded the motion.

Motion tied two for and two against.

Motion Died.

Chairman Tom Greer said the motion died and will go to the City Council with no recommendation for approval or disapproval.

DISCUSSION

A. Vacant/ Forclosed Report.

Lisa Miller informed the Commission that there were at least 30 notices of the Vacant/Foreclosed Registration Ordinance sent to Banks and Mortgage Companies. These were also sent to several property owners that she knew of. The list of properties that have been registered has a total of 20 homes. Two more were received today and are not listed. These are on Impala. There a couple of Banks and a Real Estate Broker that contacted her today and will be the registrations for their properties to her. Most banks do not maintain their vacant/foreclosed structures. They contract a property management company to do this.

Chairman Tom Greer asked if the list was a combination of commercial and residential buildings.

Lisa Miller said yes.

Vice Chair Gordon Reeves asked if a time limit is given for the clean up of the properties.

Lisa Miller said it depends on whether the structure is in foreclosure or the bank has taken it back. Once the Bank files foreclosure the property can not be touched. Only when the foreclosure is complete the property management company is contacted to maintain the structure. The structure can also be auctioned off and then the new owner is responsible. The County has changed programs and she is no longer able to access the information as she used to. This is making it harder to locate property owners with correct addresses, especially the ones that live out of town.

Chairman Tom Greer asked is she had any idea how many homes/structure were empty.

Lisa Miller said that she did not have an exact amount but said there were a lot.

Steven Tomita informed the Commission that there are a few structures that we want maintained but need to have them declared of Historical significance. To do this we need to have a Historical Committee and it is this Committee that recommends the Historical significance of a building to the Council and the Council can move to declare it of Historical significance. This would prevent the owner from demolishing the building and requiring the owner to maintain the building.

Pete Armstrong said that there is a duplex on the south west corner of Fifth and Chavez, which has been empty for at least ten years. He has contacted the police and the City to get something done about it. His concern is that one of these days someone is going to hurt, a drug OD, or something else. It seems to be that the owner

is untouchable. He would like us to consider what the City is capable of doing in this area. This is a problem for the Belen area.

Lisa Miller said that she is aware of that structure and the owner was notified and has been secured. The only thing that is happening now is the fact that the accessory structures are being repeatedly broken into. She will notify the owners' son so that this can be taken care of.

B. Sound Ordinance& Art Ordinance

Chairman Tom Greer informed the Commission that he had spoken with another Planning and Zoning Director. He suggested a subcommittee be formed to go through the Ordinances found from other Communities, put it together, and then present it for review before our Planning & Zoning Commission. Two to three of the Commissioners and maybe someone from the public could get together and work on this between Commission meetings.

Lisa Miller informed the Commission that it would have to be only two of the Commissioners or it would have to be published in the papers as a quorum.

Chairman Tom Greer asked who would like to volunteer for this.

Commissioner Selma Martinez said she would help.

Beth Christenson informed the Commission that she would help also.

Chairman Tom Greer said he would also.

OPEN COMMENTS/REQUESTS

Commissioner Rod Storey said that if any of the Commissioners received notification from MRGCOG on a meeting that he suggested the new Commissioners go. Those meetings are very informational and helpful.

Commissioner Steve Ethridge said that he attended the one in early December and did learn some interesting things at the meeting and informed the Commission what went on in this meeting.

ADJOURNMENT

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Rod Storey moved to adjourn.

Vice Chair Gordon Reeves seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 7:58 pm.

/s/
Tom Greer, Chairman

ATTEST:

/s/
Steven P. Tomita, Planning and Zoning Director